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Federal Communications Commission

May 8, 2003 Public Forum on E-rate

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Federal Communications Commission
Office of the Secretary

Statement by Gary Rawson, representing the

Council of Chief State School Officers (CCSSO) State E-rate Coordinators

Thank you Mr. Chairman and fellow Commissioners for the privilege of speaking with you today. Thank you Commissioner Abernathy for convening this public forum. It is my honor to represent the Chief State School Officers (CCSSO) Alliance of State E-rate Coordinators.

You heard earlier today that the CCSSO E-rate Coordinators met last week. We discussed many topics related to Waste, Fraud, and Abuse and we also talked about ways to streamline and improve the program. One of the topics that we discussed within the realm of Waste, Fraud, and Abuse was that of E-rate Procurement Guidelines. In attendance were 31 state e-rate coordinators representing 25 states. An outline of our discussion has already been submitted to you for your review.

Our discussion today is centered on Waste, Fraud, and Abuse within the e-rate program; in particular, what procurement rules within the guidelines of the e-rate application process lend themselves to allow activities that waste e-rate dollars, activities that defraud the program, and activities that abuse the program's intent.

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Is there Waste, Fraud, and Abuse within the e-rate program? Sure. What program responsible for the distribution of \$2.25 billion is not? Is that an excuse, or in any way lessens the concern regarding the Waste, Fraud, and Abuse? Absolutely not. Are the majority of service providers, consultants, and applicants involved in such practices? Absolutely not. Is this program a success? Absolutely.

The procurement guidelines within the application process are a relatively simple, but one in which the smallest of mistakes can lead to funding denial. The applicant must:

1. Post a 470 –

Page 2 of the FCC Form 470 Instructions – April 2002 states, “The purpose of the FCC Form 470 is to open a competitive bidding process for the services desired.” This was an attempt to establish a base-line procurement practice on all applicants, and to encourage competition.

2. Comply with state or local procurement requirements –

Page 12 of the FCC Form 470 Instructions – April 2002 states, “Applicants must also comply with any applicable state or local requirements when participating in the competitive bidding process used in the universal service discount mechanism.”

Page 27 of the FCC Form 471 Instructions – November 2001, for Block 6, Item (28) requires the applicant to: “ Certify that you have complied with all applicable state and local laws or rules regarding procurement. The FCC’s rules are not intended to preempt state or local procurement rules.”

Restated, applicants must post a 470 and applicants must not violate their own state and local procurement rules. There are two major assumptions here: (1) as a result of the 470 posting, the applicant will receive competitive responses from services providers who are willing and able to provide the services, and (2) the applicant actually falls under the jurisdiction of any state and local procurement rules. If either of these assumptions proves to be false, the procurement process becomes an easy victim to Waste, Fraud, and Abuse.

Many times applicants have flexibility in how they apply state and local procurement rules. In some cases applicants simply fall under local rules and state rules don't apply. In almost all cases the applicants will post a 470 and not receive any responses; forcing the applicants to call service providers that they already know or already have a relationship with in order to obtain a proposal. Or, there may be a single response and the applicants can assume that the one response is good enough. The 470 process does not always lead to competition nor does it prevent inflated pricing. The failure of the 470 process could be considered the starting point of Waste, Fraud, and Abuse.

If the 470 and related procurement process are the starting points of Waste, Fraud, and Abuse, then what could be done to correct the situation?

As I mentioned to you earlier, you have a copy of an outline as presented to you from the state CCSSO state e-rate coordinators. In the outline we discussed an alternative to the current 470 process. Currently, the applicant must post a Form 470 to the SLD website.